

Brad Black, MD  
CEO and Medical Director  
Center for Asbestos Related Disease  
214 East 3rd Street  
Libby, Montana 59923

Dear Dr. Black:

This letter is in reply to your March 13, 2018 letter regarding the asbestos risk evaluation under the Toxic Substances Control Act. In your letter, you expressed your concern about the exclusion of Libby Amphibole and legacy asbestos from the TSCA risk evaluation.

Section 6(b)(4) of TSCA requires the U.S. Environmental Protection Agency to establish a risk evaluation process for existing chemicals, in which the EPA must “determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator under the conditions of use.” In December 2016, the EPA published a list of 10 chemical substances that are the subject of the agency’s initial chemical risk evaluations, as required by TSCA. Asbestos was one of these chemicals. In addition, TSCA requires that the EPA publish the scope of the risk evaluation to be conducted, including the hazards, exposures, conditions of use and potentially exposed or susceptible subpopulations that the Administrator expects to consider. In June 2017, the EPA published the scope of the risk evaluation for asbestos. The document, comments received on the document and supporting materials are available in the docket at: <https://www.regulations.gov/docket?D=EPA-HQ-OPPT-2016-0736>.

On June 1, 2018, the EPA published the asbestos problem formulation document, which is a further refinement to the scope document. The problem formulation document is available for public comment until August 16, 2018 at: <https://www.regulations.gov/docket?D=EPA-HQ-OPPT-2016-0736>. After reviewing and considering comments on the problem formulation document, the EPA intends to develop the asbestos risk evaluation for public comment and issue a final asbestos risk evaluation by December 2019.

The problem formulation document reiterates that legacy uses, associated disposal, legacy disposal, and Libby Amphibole will not be considered under the risk evaluation. The EPA is excluding these activities because the agency generally interprets the mandates under TSCA section 6(a)-(b) to conduct risk evaluations and any corresponding risk management to focus on uses for which manufacture, processing or distribution is intended, known to be occurring, or reasonably foreseen, rather than reaching back to evaluate the risks associated with legacy uses, associated disposal, and legacy disposal. The agency interprets the definition of conditions of use in that context. Although vermiculite contaminated with

**Commented [NPCD1]:** For second reply:

Jan Ivers  
Chair  
Lincoln City-County Board of Health  
418 Mineral Ave.  
Libby, Montana 59923

**Commented [NPCD2]:** Change to “Ms. Ivers” for second reply.

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Libby Amphibole remains in buildings as an insulating material, it is no longer manufactured, processed or distributed for use in the United States, and therefore, is not considered a condition of use of asbestos for the purpose of the risk evaluation under TSCA.

In addition to the risk evaluation, on June 11, 2018, EPA proposed an asbestos Significant New Use Rule. This is the first time EPA has proposed such an action for asbestos. If finalized, EPA will be positioned to prevent future legacy issues by ensuring that no new uses are initiated without review, empowering the EPA to take action, including prohibiting or limiting its intended use. The Proposed Rule may be found at <https://www.federalregister.gov/documents/2018/06/11/2018-12513/asbestos-significant-new-use-rule> and is available for public comment until August 10, 2018 (Docket: EPA-HQ-OPPT-2018-0159).

As you know, the EPA is extensively involved in Libby, Montana and has removed major sources of Libby Amphibole asbestos and/or mitigated the exposure pathways to many properties in and around Libby and Troy. As of July 2018, the EPA has investigated more than 8,122 properties and completed cleanups at 2,545 properties. The agency expects to complete all remaining residential and commercial cleanups by 2019. The EPA also developed guidance for consumers on how to manage vermiculite insulation that may be contaminated with asbestos to help the public avoid exposure to asbestos. This guidance is available at: <https://www.epa.gov/asbestos/protect-your-family-asbestos-contaminated-vermiculite-insulation>. Thank you for your letter. If you have further questions, please contact Tanya Hodge Mottley, Director of the National Program Chemicals Division, at 202-564-3152 or [mottley.tanya@epa.gov](mailto:mottley.tanya@epa.gov).

Sincerely,

Jeffery Morris  
Office Director